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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,079	10/25/2001	Jay S. Dweck	G08.008	3920
28062	7590	10/18/2006	EXAMINER	
BUCKLEY, MASCHOFF, TALWALKAR LLC			ZURITA, JAMES H	
5 ELM STREET			ART UNIT	
NEW CANAAN, CT 06840			PAPER NUMBER	
			3625	

DATE MAILED: 10/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/036,079

Applicant(s)

DWECK, JAY S.

Examiner

James H. Zurita

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prosecution History

On 25 October 2001, applicant filed the instant application.

On 12 February 2003, the Examiner issued a non-final rejection of claims 1-19 as anticipated by Barrett (How to Personalize the Web).

On 1 May 2003, the application was published as PG-PUB 20030083960A1.

On 12 June 2003, applicant cancelled claims 6, 7 and 16 and amended claims 1, 3, 5, 12, 18-19.

On 28 August 2003, the Examiner issued a non-final rejection of claims 1-5, 8-15, 17-19 as anticipated by Gerace (US 5,848,396).

On 15 December 2003, applicant amended claims 1, 5, 12, 18-19.

On 24 March 2004, the Examiner issued a non-final rejection of pending claims 1- 5, 8-15 and 17 as anticipated by Tamir (US 2002/0063735). Claims 2-4 and 15 were rejected as unpatentable over Tamir in view of Official Notice.

On 28 June 2004, applicant amended claims 1, 4-5, 12-13 and 18-19. Claims 1-5, 8-15 and 17-19 remained.

On 10 September 2004, the Examiner rejected claims 1-19 as unpatentable over Tanner (US 2002/0180786).

On 7 January 2005, applicant cancelled claims 1-19 and added claims 20-24.

On 24 March 2005, the Examiner issued a final rejection of claims 20-24 as anticipated by Burge (US 6,014,638).

On 20 June 2005, applicant filed a notice of appeal. No Appeal Brief was filed.

On 19 August 2005, applicant filed a request for continued examination and added claims 25-26.

On 2 November 2005, the Examiner issued a non-final rejection of claims 20-26. Claims 20, 21 and 23-24 were rejected as unpatentable over Tanner (US 2002/0180786A1) in view of IBM Software Agent. Claim 22 was rejected as unpatentable over Tanner, IBM and further in view of Ambroziak (US 6,415,319).

On 6 February 2006, applicant requested reconsideration; no claims were amended.

On 3 May 2006, the Examiner issued a non-final rejection of claims 20-26 as unpatentable over Burge in view of Thin Clients.

On 3 August 2006, applicant filed a request for reconsideration. No claims were amended.

Response to Amendment

Applicant's submission of 3 August 2006 has been entered. No claims have been amended since 19 August 2005.

Claims 20 - 26 are pending.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 20 – 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burge (US 6,014,638) in view of “Thin clients: back to the future”; Jeff Richardson; InTech; Sep 2001 (hereafter referred to as “Thin”).

As per claim 20, Burge teaches a device and method for operating a computing device to allow a user to interact with network sites over a network interface, the method comprising:

initiating operation of user interface software on said computing device;

automatically configuring said user interface software using a set of stored preference information, said preference information including a ranking of preferred ones of said plurality of network sites, said ranking previously established based on characteristic information automatically measured based on previous network activity of said user;

operating said user interface software to interact with a plurality of network sites', updating said characteristic information based on said detected network activity, said characteristic information including information identifying the duration and frequency of visits to each of said plurality of network sites; and

updating said preference information based on said updated characteristic information to automatically reconfigure user preferences of said user interface (see at least Abstract, Col 1, lines 7 – 16, Col 3, lines 1 – 17, Col 5, lines 50 – 67, Col 6, lines 1 - 8 and 50 – 67, Col 8, lines 13 – 44 and Figure 2B).

Burge discloses the limitations of claims 20 and 24, which deliver the same results for the end user - with the exception of storing of instructions and results at the computing device.

On the other hand and known to one of ordinary skill that the system implementation regarding the location of the storing of the instructions to be executed by the processor can either be executed at the client or server is design/implementation decision based on requirements and is a tradeoff, which often is undertaken. For example, the decision to use "fat" clients vs. "thin" clients is often undertaken based on requirements and current hardware to decide where the instructions are to be executed. Thereby, the execution of the stored instructions by the processor/system and this tradeoff is based on requirements such as cost where the processing of instructions will occur and therefore is a design decision and this is taught by "Thin clients: back to the future"; Jeff Richardson; InTech; Sep 2001.

It would have been obvious to one of ordinary skill in the art to have extended the computer device and method of Burge with a computing device with instructions stored at the computing device for configuring, operating, detecting, and updating as taught by "Thin". Thereby, the user will be able to perform the same computing instructions at the user's computing device, which will lower/decrease the amount of computing capability required at a central server and thereby too decrease cost for each network site's investment in computing hardware such as additional servers.

Please note that Burge teaches a method and computing device with software instructions adapted to detect, track and prioritize/rank network activity. While Burge

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does not specifically disclose the word ranking, the reference does teach arranging selected sites in order of preference determined from user navigation. Moreover and from the Applicant's specification (page 13), the specification discloses that ranking can be based on frequency of visiting a site (cnn.com) and thereby indicates it is a preferred site. In that regard and in keeping with Applications specification, the teachings in Burge were considered equivalent (See, for example, at least Col 2, lines 7 – 13 and Col 8, lines 21 – 30).

As per claim 21, Burge teaches a computing device, wherein said characteristic information further includes information identifying at least **one** of:

- (i) a network site with the greatest frequency of visits by said computing device;
- (ii) a network site having the greatest time spent by said computing device (Col 8, lines 41 – 42);
- (iii) a network site having the greatest number of downloads by said computing device;
- (iv) a network site for which said computing device selected the largest window size; and
- (v) a network site having the greatest number of keystrokes interaction by said computing device.

As per claim 22, Burge teaches a computing device, wherein said preference information further stores at least one alternative network site for at least one of said ranked network sites (see, for example, at least Col 9, lines 17 – 25).

As per claim 23, Burge teaches a computing device, wherein said network activity is detected by monitoring at least **one** of

- (i) a time spent at a network site;
- (ii) a frequency of communications with a network site;
- (iii) a number of downloads from a network site;
- (iv) a window size while in communication with a network site;
- (v) a number of keystrokes while in communication with a network site.

See, for example, at least Col 6, lines 50 – 67.

Claim 24, drawn to a method, is rejected on the same grounds as claim 20.

Claim 25, drawn to a method, is rejected on the same grounds as claim 20.

Claim 26, drawn to a method, is rejected on the same grounds as claim 20.

Response to Arguments

Applicant's arguments with respect to claims 20 - 26 have been considered but are not persuasive.

On page 8, applicant incorrectly restates limitations found in claim 20:

Applicant reiterates that the pending claims relate to a device and method to Interact with network sites over a network Interface. For example, claim 20 relates to a storage device [coupled to said processor and] storing browser software Adapted to control a processor to download and display Information from a plurality of network sites, characteristic Information associated with each of a plurality of network sites, preference information Including a ranking of preferred ones of the plurality of network sites as measured by the characteristic Information for [sic] indicated by the browser software, and instructions adapted to be executed by the processor to: detect network activity of the user when the user operates the browser software to Interact with the plurality of network sites, update the characteristic information based on the detected network activity, the characteristic Information including information Identifying the duration and frequency of visits to each of the plurality of network sites, and update the preference Information based on the updated characteristic Information to automatically reconfigure user preferences Indicated by said browser software.

In response to these comments, claim 20 reads, in relevant part, "...for automatically configuring user preferences indicated by said browser software..."

Applicant also argues,

Moreover, It Is clear that the claimed browser software is adapted to control the processor to download and display various information and Indicate user preferences. Since the claimed browser software is adapted do control the processor to download and display various information and Indicate user preferences, Applicant's computing device (claims 20 - 24) and method (claims 24 - 26) are not restricted or limited to a specific browsing context, application, or environment. The claimed computing device and method may be applicable and useful In a wide variety of applications, contexts, and applications.

Burge was cited and relied upon in the Office Action to disclose all aspects of claims 20 and 24 except for a computing device with Instructions stored at the computing device. For storage of Instructions with a computing device, the Office Action cites and relies upon the Thin reference. However, Applicant respectfully submits that Burge and Thin do not disclose that for which they were cited and relied upon for disclosing.

Applicant's invention appears to be directed to having various actions performed on the client-side. The claims, as written, do not reflect this. This is reflected by

Applicant's comments

Applicant's computing device (claims 20 - 24) and method (claims 24 - 26) are not restricted or limited to a specific browsing context, application, or environment. The claimed computing device and method may be applicable and useful in a wide variety of applications, contexts, and applications.

During prosecution, claim limitations are given their broadest reasonable interpretation. The term "...computing device..." reads on both client-side as well as server-side devices. Similarly, "...browser software..." reads on both client-side components and server-side components, since browser software has both.

Thus, claim 20 calls for, in relevant part, a storage device [client-side or server-side] coupled to said processor [client-side or server-side] and storing

(a) browser software [client-side or server-side browser software] adapted to [...act on three types of data...] and

(b) instructions adapted to [...perform some actions with the data...]

Similarly, claim 24 does not specify where various actions take place.

Thus, Burge and Thin disclose Applicant's invention as claimed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Zurita whose telephone number is 571-272-6766. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James Zurita
Primary Examiner
Art Unit 3625
13 October 2006

James Zurita
Primary Examiner